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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 9672/2024 & CRL.M.A. 37125/2024

SH. PRABHAT MISHRA & ORS.Petitioners

Through: Mr. Abdul Hameed, Adv. with
petitioners in person.

versus

THE STATE OF NCT OF DELHI & ANR.Respondents

Through: Mr. Nawal Kishore Jha, APP for State
with SI Sachin Dhama PS Shalimar
Bagh
Mr. Sumit Singh, Mr. Gagandeep
Sharma and Mr. Ashish Sehrawat,
Advs. for R-2

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

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14.01.2025

1. The present petition has been filed under Section 528 of BNSS, 2023 seeking quashing of FIR No.0200/2018 under Sections 323/328/376/34 IPC registered at Police Station Shalimar Bagh and all consequential proceedings emanating therefrom on the ground that the parties have arrived at a settlement.
2. The notice was issued by this Court *vide* order dated 10.12.2024.
3. The petitioner no.1 (husband), petitioner nos. 2-5, who are close relatives of petitioner no.1, as well as, respondent no. 2 (wife) are present in the Court and they have been identified by their respective counsel, as well as, by the Investigating Officer SI Sachin Dhama PS Shalimar Bagh.
4. The brief facts as noted from the FIR are that the petitioner no.1 was a neighbour of the respondent no.2. In the month of March, 2017, the petitioner no.1 made the respondent no.2 meet his brother in his house



located in Uttam Nagar, Delhi. On reaching there, the petitioner no.1 gave cold drink to the respondent no.2 and after drinking it, she became unconscious. Thereafter, when the respondent no.2 gained consciousness, she realised that the petitioner no.1 has committed sexual intercourse against her will. However, it is alleged to prevent her reputation being harmed in the society, the respondent no.2 did not make any complaint and instead married the petitioner no.1 on 18.05.2017. After getting married, it is further alleged that the petitioners no.3, 4 and 5, who are stated to be relatives of the petitioner no.1 also used to assault the respondent no.2. Hence, the present FIR came to be registered.

5. During the pendency of the proceedings, the parties were referred to Family Courts, North/West Rohini, Delhi, where they arrived at a settlement, terms whereof were reduced in writing in the form of Settlement deed dated 04.06.2024, which is annexed as Annexure P-8 to the present petition.

6. In terms of the said settlement, the petitioner no.1 and respondent no.2 decided to dissolve their marriage by filing a petition for divorce by way of mutual consent. Accordingly, the petitioner no.1 and the respondent no.2 have already taken steps to dissolve their marriage and the first motion petition has been allowed.

7. It is a term of the settlement between the parties that the petitioner no.1 shall pay a total sum of Rs.7,00,000/- to the respondent no.2 towards full and final settlement of all her claims on account of *streedhan*, permanent alimony, dowry articles, maintenance (past, present and future) etc. Out of the said amount, a sum of Rs.3,50,000/- has already been paid by the petitioner no.1 to the respondent no.2 in the manner as mentioned in the



settlement. The remaining amount of Rs.3,50,000/- has been paid to the respondent no.2 today in the court by the petitioner no.1 by way of Demand Draft bearing No.004396 dated 17.12.2024 issued by HDFC Bank.

8. The receipt of entire amount of Rs.7,00,000/- is acknowledged by the respondent no.2, who is present in court.

9. The respondent no.2, on a query posed by the Court, states that she has no objection in case the FIR is quashed *qua* all the petitioners.

10. In the present case, one of the offences which is alleged against the petitioner pertains to Section 376 IPC. Though, it is a trite law that ordinarily the High Courts must show restraint in quashing FIRs for offences under Section 376 IPC but in peculiar facts and circumstances, the High Courts can quash FIRs in which offences like Section 376 IPC have been involved. In this regard, reference may advantageously be made to a decision of Hon'ble Supreme Court in '**Kapil Gupta v. NCT of Delhi**¹', wherein it was held as under: -

"12. It can thus be seen that this Court has clearly held that though the Court should be slow in quashing the proceedings wherein heinous and serious offences are involved, the High Court is not foreclosed from examining as to whether there exists material for incorporation of such an offence or as to whether there is sufficient evidence which if proved would lead to proving the charge for the offence charged with. The Court has also to take into consideration as to whether the settlement between the parties is going to result into harmony between them which may improve their mutual relationship.

13. The Court has further held that it is also relevant to consider as to what is the stage of the proceedings. It has been observed that if an application is made at a belated stage wherein the

¹ (2022) SCC OnLine SC 1030



evidence has been led and the matter is at the stage of arguments or judgment, the Court should be slow to exercise the power to quash the proceedings. However, if such an application is made at an initial stage before commencement of trial, the said factor will weigh with the court in exercising its power.

14. The facts and circumstances as stated hereinabove are peculiar in the present case. Respondent 2 is a young lady of 23 years. She feels that going through trial in one case, where she is a complainant and in the other case, wherein she is the accused would rob the prime of her youth. ***She feels that if she is made to face the trial rather than getting any relief, she would be faced with agony of undergoing the trial.***

15. In both the cases, though the charge-sheets have been filed, the charges are yet to be framed and as such, the trial has not yet commenced. ***It is further to be noted that since Respondent 2 herself is not supporting the prosecution case, even if the criminal trial is permitted to go ahead, it will end in nothing else than an acquittal. If the request of the parties is denied, it will be amounting to only adding one more criminal case to the already overburdened criminal courts.***

16. In that view of the matter, we find that though in a heinous or serious crime like rape, the Court should not normally exercise the powers of quashing the proceedings, in the peculiar facts and circumstances of the present case and in order to give succour to Respondent 2 so that she is saved from further agony of facing two criminal trials, one as a victim and one as an accused, we find that this is a fit case wherein the extraordinary powers of this Court be exercised to quash the criminal proceedings.”

(emphasis supplied)

11. The present FIR appears to be an offshoot of marital discord and the parties have arrived at settlement, in terms whereof they have dissolved their marriage. In view of the fact that the parties have arrived at a settlement and



the have decided to part their ways and move on in their respective lives, no useful purpose will be served in continuing the proceedings. It is, thus, in the interest of justice that the present FIR and all the other proceedings emanating therefrom be quashed.

12. Consequently, the petition is allowed and the FIR No.0200/2018 under Sections 323/328/376/34 IPC registered at Police Station Shalimar Bagh registered at Police Station Jamia Nagar, New Delhi alongwith all other proceedings emanating therefrom, is quashed.

13. The petition stands disposed of in the above terms.

VIKAS MAHAJAN, J

JANUARY 14, 2025
N.S. ASWAL